IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2097 OF 2007

Shri Somnath Appasaheb Palkar ..Petitioner
Vs.
Shri Shaikh Ahmed Chandsaheb
and ors. ..Respondents

Mr. A.B. Avhad for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : April 05, 2007.

P.C.:

1. Heard Mr. Avhad the learned counsel for the petitioner who was defendant no.1 in the Civil Suit No.304 of 2001 filed for eviction under Section 16(1) of the Maharashtra Rent Control Act, 1999 for possession of the tenanted premises. Though the suit was dismissed by the Small Causes Court at Pune on 1/3/2004, Civil Appeal No. 331 of 2004 challenging the said order has been allowed by the learned 10th Ad-hoc Additional District Judge, Pune vide his Judgment and Order dated 21/2/2005 and the suit was decreed by setting aside the Judgment and Decree dated 1/3/2004 passed by the Small Causes Court at Pune. Defendant Nos.1 and 2 i.e. the tenants have been directed to deliver vacant possession of the suit premises to the plaintiff within one month of the

passing of the decree. This eviction decree came to be challenged before this court in Writ Petition No.2889 of 2005 and the said petition came to be rejected summarily on 11/10/2005. The said petition was filed by defendant no.2 Ambadas Bhujangrao Palkar.

2. The present petitioner who was impleaded as defendant no.1 claims in this petition that the defendant no.2, who filed Writ Petition No.2889 of 2005 had kept him in dark and he was not aware about the challenge to the decree passed by the Lower Appellate Court and as raised in the Writ Petition No.2889 of 2005. It is not that the present petitioner was not a party before the courts below and, in fact, it appears that the suit as well as the appeal were contested jointly. Hence, this fresh petition cannot be entertained.

3. The petition is rejected summarily. However, this order will not come in the way of the petitioner to file review application in Writ Petition No.2889 of 2005, if so desired.

(B.H. Marlapalle,J.)